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EXAMINER

SQUIRES, ELIZA A

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3626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/750,478	Applicant(s) DOYEL ET AL.	
	Examiner Eliza Squires	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16,23-46 and 48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16,23-46 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment dated 4/28/2010 has been entered. Claims 1, 5, 6, 23, 35, 37, 43, and 45 have been amended. Claims 17-22 and 27 have been cancelled. Claims 1-16, 23-46, and 48 are pending in the application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/28/2010 has been entered.

Affidavit or Declaration Under 37 CFR 1.131

3. The declaration filed on 4/28/2010 under 37 CFR 1.131 has been considered but is ineffective to overcome the Merkin reference.

4. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Merkin reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). No evidence was provided for the purpose of establishing conception.

Art Unit: 3626

5. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Merkin reference to either a constructive reduction to practice or an actual reduction to practice. No evidence was provided to support diligence.

6. The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Merkin reference. “In an interference proceeding, a party seeking to establish an actual reduction to practice must satisfy a two-prong test: (1) the party constructed an embodiment or performed a process that met every element of the interference count, and (2) the embodiment or process operated for its intended purpose.” *Eaton v. Evans*, 204 F.3d 1094, 1097, 53 USPQ2d 1696, 1698 (Fed. Cir. 2000). See MPEP 2138.05. The evidence provided by the applicant does not show actual reduction to practice of every claim element. For example, Exhibit A does not show in Claim 1 at least “applying one or more factors to the patient information utilizing a computing device, wherein the computing device applies the one or more factors to the patient information to generate an expectation for at least one health maintenance item for a person”, “automatically determining whether the expectation for the at least one health maintenance item has not been satisfied”, in Claim 2 at least “searching an integrated database in a comprehensive healthcare system to determine if an existing order has been placed for the expectation”, in claim 15 at least “obtaining possible satisfiers for each of the one or more unsatisfied expectations, wherein the computing device determines the possible satisfiers by comparing the one or more unsatisfied expectations to information from a database”, in claim 23 at least “a generating module for generating an expectation for a health maintenance item for a person based on medical information associated with the person” and “a determining module, utilized by a computing

Art Unit: 3626

device, for automatically determining whether the expectation has not been satisfied, wherein the computing device determines the expectation has not been satisfied based on information from a database", in claim 35 at least "a searching module for searching records associated with a person to identify unsatisfied health maintenance item expectations", in claim 43 at least "automatically determining, utilizing a first computer process, the expectation has not been satisfied by comparing the expectation to information selected from one or more of the following: the set of electronic records", in claim 44 at least "automatically determining whether the expectation has not been satisfied wherein a computing device determines the expectation has not been satisfied", in claim 45 at least "obtaining one or more unsatisfied health maintenance item expectations for a person by applying factors to information associated with the person", and in claim 46 at least "obtaining, utilizing a first computer process, one or more unsatisfied health maintenance item expectations for a person by searching electronic records".

Claim Rejections - 35 USC § 112

7. The rejections under 35 USC 112 have been withdrawn in light of Applicant's arguments and amendments.

Art Unit: 3626

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-7, 15-16, 23-36, and 43-46** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 7,464,041 to *Merkin et al.* in view of U.S. Patent Application Publication 2003/0208391 to *Dvorak et al.*

9. **As to claim 1**, *Merkin* discloses a method in a computer system for automatically determining an expectation for a health maintenance item has not been satisfied, the method comprising:

obtaining patient information (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

applying one or more factors to the patient information utilizing a computing device, wherein the computing device applies the one or more factors to the patient information to generate an expectation for at least one health maintenance item for a person (*Merkin* column 4 lines 21-29 and claim 1);

automatically determining whether the expectation for the at least one health maintenance item has not been satisfied (*Merkin* column 4 lines 21-29);

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying more than one satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

Art Unit: 3626

determining more than one satisfier for the unsatisfied expectation for the at least one health maintenance item (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

displaying the more than one satisfier for the unsatisfied expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving a selection of a first satisfier of the more than one satisfier utilizing an input area associated with the satisfier (*Dvorak* figure 1, and figure 2 item 220);

storing the first satisfier for display in a health maintenance schedule associated with the patient (*Dvorak* figure 2 items 202, 204, 226, and 224); and

displaying the health maintenance schedule associated with the patient, including the first satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

10. **As to claim 2**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes searching an integrated database in a comprehensive healthcare system to determine if an existing order has been placed for the expectation (*Merkin* column 4 lines 30-47, column 9 lines 43-67, and column 10 lines 1-17). Examiner notes that an order could be an appointment being made alternatively a fulfilled order would be an addition to a patient record documenting the completed procedure.

Art Unit: 3626

11. **As to claim 3**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes searching an integrated database in a comprehensive healthcare system to determine if a procedure has been documented (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

12. **As to claim 4**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes searching an integrated database in a comprehensive healthcare system to determine if one or more result values exist for the expectation (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

13. **As to claim 5**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes receiving an order for a satisfier for the expectation (*Merkin* column 4 lines 30-47, column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17, column 11 lines 38-53, and figures 1 and 2).

14. **As to claim 6**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein determining the expectation is not satisfied includes receiving documentation of a result that is a satisfier for the expectation (*Merkin* column 9 lines 43-67 and column 10 lines 1-17).

15. **As to claim 7**, see the discussion of claim 1, additionally, *Merkin* discloses the method wherein the health maintenance item is one of a screening (*Merkin* column 9 lines 43-67 and column 10 lines 1-17).

16. **As to claim 15**, *Merkin* discloses a method in a computer system for generating satisfiers for an expectation for a health maintenance item, the method comprising:

receiving data associated with a person from electronic records (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

Art Unit: 3626

obtaining, utilizing a computing device, one or more unsatisfied health maintenance item expectations for the person (*Merkin* claim 1 part (d), column 9 lines 43-67, and column 10 lines 1-17);

obtaining possible satisfiers for each of the one or more unsatisfied expectations, wherein the computing device determines the possible satisfiers by comparing the one or more unsatisfied expectations to information from a database (*Merkin* claim 1 part (d), column 9 lines 43-67, and column 10 lines 1-17);

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach displaying satisfiers, receiving a selection, and storing a schedule or requesting details. *Dvorak* discloses:

displaying the possible satisfiers for each of the one or more unsatisfied expectations utilizing a user-interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving, by the computing device, a request for details associated with at least one of the possible satisfiers (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

displaying the details based on the request, wherein the details are displayed in a separate screen utilizing the user-interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving a selection of at least one of the possible satisfiers (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

storing the at least one selected possible satisfier in association with the person, wherein the storage of the selected possible satisfier updates a health maintenance schedule for the person (*Dvorak* figure 2 items 202, 204, 226, and 224).

Art Unit: 3626

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

17. **As to claim 16**, see the discussion of claim 15, additionally, *Merkin* discloses the method wherein possible satisfiers are obtained from a pre-defined list for each health maintenance item stored in a database (*Merkin* claim 1 part (d), column 9 lines 43-67, and column 10 lines 1-17).

18. **As to claim 23**, *Merkin* discloses a computerized system for automatically determining whether an expectation for a health maintenance item has been satisfied, the system comprising:

a generating module for generating an expectation for a health maintenance item for a person based on medical information associated with the person (*Merkin* column 4 lines 21-29 and claim 1);

a determining module, utilized by a computing device, for automatically determining whether the expectation has not been satisfied, wherein the computing device determines the expectation has not been satisfied based on information from a database (*Merkin* column 4 lines 21-29);

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying a satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

a first displaying module for displaying the expectation that has not been satisfied (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

Art Unit: 3626

a first receiving module for receiving an input indicating the expectation has been satisfied (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

a first storing module for storing the input indicating the expectation has been satisfied (*Dvorak* figure 2 items 202, 204, 226, and 224);

a second displaying module for displaying a schedule for the person, wherein the schedule includes an indication the expectation has been satisfied (*Dvorak* figure 2 items 202, 204, 226, and 224);

a selecting module for selecting to view one or more details of the satisfied expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

a third displaying module for displaying the one or more details of the satisfied expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

19. **As to claim 24**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if an existing order has been placed for the expectation (*Merkin* column 4 lines 30-47, column 9 lines 43-67, and column 10 lines 1-17).

Art Unit: 3626

20. **As to claim 25**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if a procedure has been documented (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

21. **As to claim 26**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein determining the expectation has not been satisfied includes searching an integrated database in a comprehensive healthcare system to determine if one or more result values exist for the expectation (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

22. **As to claim 27**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein the expectation is satisfied by receiving input indicating an order for a satisfier for the expectation (*Merkin* column 4 lines 30-47, column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17, column 11 lines 38-53, and figures 1 and 2).

23. **As to claim 28**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein the expectation is satisfied by receiving input indicating documentation of a result that is a satisfier for the expectation (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

24. **As to claim 29**, see the discussion of claim 23, additionally, *Merkin* discloses the system wherein the health maintenance item is one of a screening (*Merkin* column 9 lines 43-67 and column 10 lines 1-17).

25. **As to claim 30**, see the discussion of claim 23, additionally, *Merkin* discloses the system further comprising a first obtaining module for obtaining medical information for the person

Art Unit: 3626

from the person's electronic medical record in a comprehensive healthcare system (*Merkin* column 9 lines 43-67 and column 10 lines 1-17).

26. **As to claim 31**, see the discussion of claims 23 and 30, additionally, *Merkin* discloses the system further comprising a second obtaining module for obtaining one or more recommended health maintenance items (*Merkin* column 9 lines 43-67 and column 10 lines 1-17 also see claim 1).

27. **As to claim 32**, see the discussion of claims 23 and 30-31, additionally, *Merkin* discloses the system further comprising a third obtaining module for obtaining the factors that would qualify a person for the one or more health maintenance items (*Merkin* column 4 lines 16-29).

28. **As to claim 33**, see the discussion 23 and 30-32, additionally, *Merkin* discloses the system further comprising a comparing module for comparing the information for the person with the qualification factors to determine the person qualifies for one or more of the one or more recommended health maintenance items (*Merkin* column 11 lines 5-37).

29. **As to claim 34**, see the discussion of claims 22 and 30-33, additionally, *Merkin* discloses the system further comprising a second storing module for storing the input indicating the expectation has been satisfied in an electronic medical record associated with the person in a comprehensive healthcare system (*Merkin* claim 1 step (f) and claim 6).

30. **As to claim 35**, *Merkin* discloses a computerized system for generating satisfiers for an expectation for a health maintenance item, the system comprising:

a searching module for searching records associated with a person to identify unsatisfied health maintenance item expectations (*Merkin* column 4 lines 21-29 and claim 1);

Art Unit: 3626

a first obtaining module for obtaining, at a computing device, one or more unsatisfied health maintenance item expectations for the person (*Merkin* column 4 lines 21-29);

a second obtaining module for obtaining, at the computing device, a possible satisfier for each of the one or more unsatisfied expectations; (*Merkin* column 4 lines 21-29)

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying more than one satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

a first displaying module for displaying the possible satisfier for each of the one or more unsatisfied expectations, wherein the display includes an input area associated with each of the possible satisfiers (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

a receiving module for receiving input associated with a first satisfier of the possible satisfier for each of the one or more unsatisfied expectations (*Dvorak* figure 1, and figure 2 item 220);

a storing module for storing the input in association with the first satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224);

an updating module for updating a patient schedule based on the input (*Dvorak* figure 2 items 202, 204, 226, and 224); and

a determining module for determining a priority level of the first satisfier (*Dvorak* [0034]);

a second displaying module for displaying the updated patient schedule, including the first satisfier and the priority level (*Dvorak* [0034]).

Art Unit: 3626

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

31. **As to claim 36**, see the discussion of claim 35, additionally, *Merkin* discloses the system wherein possible satisfiers are obtained from a pre-defined list for each health maintenance item stored in a database (*Merkin* claim 1 c. iii).

32. **As to claim 43**, *Merkin* discloses a system in a computerized environment for automatically determining an expectation for a health maintenance item has not been satisfied, the method comprising:

searching a set of electronic records (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

generating an expectation for a health maintenance item for a person (*Merkin* column 4 lines 21-29 and claim 1);

automatically determining, utilizing a first computer process, the expectation has not been satisfied by comparing the expectation to information selected from one or more of the following: the set of electronic records (*Merkin* column 4 lines 21-29 and claim 1);

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying more than one satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

Art Unit: 3626

displaying more than one input option associated with the expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving a selection of at least one of the input options associated with the expectation (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

updating, utilizing a second computer process, the health maintenance item for the person based on the selection of at least one of the input options (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

determining, utilizing a third computer process, a health maintenance schedule for the person, wherein the first, second and third computer processes are performed on one or more computing devices (*Dvorak* figure 2 items 202, 204, 226, and 224); and

displaying the health maintenance schedule, wherein the schedule includes the updated health maintenance item (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

33. **As to claim 44**, *Merkin* discloses computer-executable instructions for performing a method, the method comprising:

generating an expectation for a health maintenance item for a person (*Merkin* column 4 lines 21-29 and claim 1);and

Art Unit: 3626

automatically determining whether the expectation has not been satisfied wherein a computing device determines the expectation has not been satisfied (*Merkin* column 4 lines 21-29 and claim 1);

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying more than one satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

displaying a health maintenance schedule for the person, including the unsatisfied health maintenance item, on an interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

displaying an input area for receiving requests for additional information associated with the unsatisfied health maintenance item (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving a request for the additional information (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

opening a window on the interface, in response to the request, that includes additional information about the unsatisfied health maintenance item (*Dvorak* figure 1, and figure 2 items 216, 218, 220).

34. **As to claim 45**, *Merkin* discloses a system in a computerized environment for generating satisfiers for an expectation for a health maintenance item, the method comprising:

obtaining one or more unsatisfied health maintenance item expectations for a person by applying factors to information associated with the person (*Merkin* column 4 lines 21-29 and claim 1);

obtaining possible satisfiers for each of the one or more unsatisfied expectations (*Merkin* column 4 lines 21-29 and claim 1);

Art Unit: 3626

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying a satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

displaying the possible satisfiers for each of the one or more unsatisfied expectations (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving input associated with a first satisfier of the possible satisfiers for each of the one or more unsatisfied expectations (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

determining a priority for the first satisfier (*Dvorak* [0034]);

updating, utilizing a computing device, a health schedule for the person based on the input (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

displaying the updated health schedule, including the first satisfier and an indication of the priority (*Dvorak* figure 1, and figure 2 items 216, 218, 220).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

35. **As to claim 46**, *Merkin* discloses A computer-readable medium having computer-executable instructions for performing a method, the method comprising:

obtaining, utilizing a first computer process, one or more unsatisfied health maintenance item expectations for a person by searching electronic records (*Merkin* column 4 lines 21-29 and claim 1);

Art Unit: 3626

obtaining, utilizing a second computer process, possible satisfiers for each of the one or more unsatisfied expectations (*Merkin* column 4 lines 21-29 and claim 1);

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying a satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

displaying the possible satisfiers for each of the one or more unsatisfied expectations (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving input associated with a first unsatisfied expectation, wherein the input indicates expiration of the first unsatisfied expectation (*Dvorak* [0034]);

storing, utilizing a third computer process, the input in association with the first unsatisfied expectation, wherein the first, second and third computer processes are performed on one or more computing devices (*Dvorak* figure 2 items 202, 204, 226, and 224);

receiving a request for a health maintenance schedule for the person (*Dvorak* figure 2 items 202, 204, 226, and 224);

displaying the schedule, including the first unsatisfied expectation (*Dvorak* figure 2 items 202, 204, 226, and 224);

receiving a selection of the first unsatisfied expectation (*Dvorak* figure 2 items 202, 204, 226, and 224); and

displaying the input associated with the first unsatisfied expectation in response to the selection (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* the scheduling system as taught by *Dvorak* since the claimed invention is merely a

Art Unit: 3626

combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Art Unit: 3626

36. **Claims 8-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Merkin* in view of *Dvorak* in further view of U.S. Patent Application 2004/0243619 to *Kelly et al.*

37. **As to claim 8**, *Merkin* and *Dvorak* disclose the method substantially as claimed in claim 1; however *Merkin* does not explicitly teach receiving a request for health maintenance items for a patient. In a similar field of endeavor (as *Kelly*, while being directed towards an automotive application, still is directed towards scheduling maintenance items), *Kelly* discloses:

receiving a request for health maintenance items for a patient (paragraphs [0063]-[0066] and [0057]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Merkin* with *Kelly* since the combination would improve the user's knowledge of the each of the maintenance items required so that more informed decisions can be made.

38. **As to claim 9**, see the discussion of claims 1 and 8, additionally, *Kelly* discloses the method wherein the request is from a user (paragraphs [0063]-[0066] and [0057]).

39. **As to claim 10**, see the discussion of claims 1 and 8-9, additionally, *Merkin* discloses the method further comprising obtaining patient information for the person from the person's electronic medical record in a comprehensive healthcare system (*Merkin* column 6 lines 11-51, column 9 lines 43-67, and column 10 lines 1-17).

40. **As to claim 11**, see the discussion of claims 1 and 8-10, additionally, *Merkin* discloses obtaining more than one recommended health maintenance items (*Merkin* column 4 lines 1-29).

41. **As to claim 12**, see the discussion of claims 1 and 8-11, additionally, *Merkin* discloses applying more than one factor to generate an expectation for the one or more health maintenance items (*Merkin* column 4 lines 16-29).

Art Unit: 3626

42. **As to claim 13**, see the discussion of claims 1 and 8-12, additionally, *Merkin* discloses the method further comprising comparing the information for the person with the more than one factor to determine the person qualifies for one or more of the one or more recommended health maintenance items (*Merkin* column 11 lines 5-37).

43. **As to claim 14**, see the discussion of claims 1 and 8-13, additionally, *Merkin* discloses the method further comprising generating an expectation for each of the health maintenance items for which the patient qualifies (*Merkin* claim 1 part (d), column 9 lines 43-67, and column 10 lines 1-17).

Art Unit: 3626

44. **Claims 37-42 and 48** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Merkin* in view of U.S. Patent 5,737,539 to *Edelson* in further view of *Dvorak*.

45. **As to claim 37**, *Merkin* discloses a computerized system for determining a patient may experience an adverse reaction to a satisfier chosen for an expectation for a health maintenance item, the method comprising:

- a first determining module, for determining an expectation for a health maintenance item for a person, utilizing a computing device (*Merkin* column 4 lines 21-29 and claim 1);

- a second determining module for automatically determining the expectation has not been satisfied (*Merkin* column 4 lines 21-29 and claim 1);

- a third determining module for determining a recommended satisfier for the expectation (*Merkin* column 4 lines 21-29 and claim 1);

- a first obtaining module for obtaining, utilizing a first computer process, healthcare information for the person (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

- a first receiving module for receiving the satisfier for the expectation for the health maintenance item (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

However, *Merkin* does not explicitly teach warning about a possible adverse reaction. *Edelson* discloses:

- a fourth determining module for determining whether, utilizing a second computer process, the person may have an adverse reaction to the satisfier by comparing information

Art Unit: 3626

regarding possible adverse reactions to the healthcare information for the person (*Edelson* column 31 lines 8-46);

a warning module for warning of the possible adverse reaction to the satisfier (*Edelson* column 31 lines 8-46);

It would have been obvious to automate the system of *Merkin* using the method of *Edelson* since the combination would assist in the prevention of human error.

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the references do not teach receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

a second receiving module for receiving, utilizing a third computer process, input associated with the satisfier, wherein the first, second and third computer processes are performed on one or more computing devices (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

a storing module for storing the input associated with the satisfier, wherein storing the input updates a schedule for the patient (*Dvorak* figure 2 items 202, 204, 226, and 224); and

a displaying module for displaying the updated patient schedule, including the satisfier, wherein the satisfier is selectable to view the input associated with the satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224).

It would have been obvious to one of ordinary skill in the art to include in the method of *Merkin* and *Edelson* the scheduling system as taught by *Dvorak* since the claimed invention is merely a combination of old elements, and in the combination each element merely would have

Art Unit: 3626

performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

46. **As to claim 38**, see the discussion of claim 37, additionally, *Edelson* discloses the system wherein the satisfier is an order for a medication(*Edelson* column 31 lines 8-46).

47. **As to claim 39**, see the discussion of claim 37 and 38, additionally, *Edelson* discloses the system wherein a determination is made as to whether the person is allergic to the medication (*Edelson* column 31 lines 8-46).

48. **As to claim 40**, see the discussion of claim 37, additionally, *Merkin* discloses the system wherein the healthcare information for a person is obtained from the patient's electronic medical record in a comprehensive healthcare environment (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32).

49. **As to claim 41**, *Edelson* discloses the method further comprising obtaining information regarding possible adverse reactions to the satisfier from a database (*Edelson* column 31 lines 8-46).

50. **As to claim 42**, see the discussion of claims 37, additionally, *Dvorak* discloses the system wherein the satisfier is further selectable to update the input associated with the satisfier (*Dvorak* figure 2 items 202, 204, 226, and 224).

51. **As to claim 48**, *Merkin* discloses a computer-readable medium having computer-executable instructions for performing a method, the method comprising:

receiving a satisfier for an expectation for a health maintenance item (*Merkin* column 4 lines 21-29 and claim 1);

Art Unit: 3626

obtaining healthcare information for a person (*Merkin* see electronic health record abstract, column 2 lines 62-67, column 3 lines 1-17, and column 7 lines 5-32);

Merkin teaches that scheduling an appointment may be a satisfier (*Merkin* column 11 lines 37-53). However, the reference does not teach determining and displaying a satisfier, receiving a selection, and storing and displaying a schedule. *Dvorak* discloses:

displaying the healthcare information in a schedule in a first screen on a user-interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

receiving selection of the satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220);

obtaining, utilizing one or more computing devices, information associated with the satisfier (*Dvorak* figure 1, and figure 2 items 216, 218, 220); and

displaying the information associated with the satisfier in a second screen on the user-interface (*Dvorak* figure 1, and figure 2 items 216, 218, 220).

However, the references do not explicitly teach determining that a person may have an adverse reaction. *Edelson* discloses

determining, utilizing one or more computing devices, the person may have an adverse reaction to the satisfier (*Edelson* column 31 lines 8-46); and

warning of the possible adverse reaction to the satisfier (*Edelson* column 31 lines 8-46).

It would have been obvious to automate the system of *Medvedeff* using the method of *Edelson* since the combination would assist in the prevention of human error.

Response to Arguments

52. Applicant's arguments are moot as the 1.131 declaration is insufficient to overcome the *Merkin* reference as discussed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliza Squires whose telephone number is (571)270-7052. The examiner can normally be reached on Monday through Friday 8 am - 4 pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. S./
Examiner, Art Unit 3626
/Neal R Sereboff/
Examiner, Art Unit 3626
5/6/2010